

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
2007 APR 26 AM 8:39
CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY

CHARLES EDWARD LINCOLN, III §
AND JOHN HENRY FRANKS, §

PLAINTIFFS, §

V. §

GREG ABBOTT, TEXAS ATTORNEY §
GENERAL, THE HONORABLE §
JAMES F. CLAWSON, MICHAEL P. §
DAVIS, JANA DUTY, WILLIAMSON §
COUNTY ATTORNEY, JAMES §
RANDALL GRIMES, THE HONORABLE §
MICHAEL JERGENS, LAURIE J. NOWLIN, §
THE HONORABLE B.B. SCHRAUB, §
JAMES CARLTON TODD, WILLIAMSON §
COUNTY, TEXAS, TEXAS STATE §
JUDGES MICHAEL JOE 1-N, TEXAS §
ATTORNEYS JAMES JOE 1-N, §

DEFENDANTS. §

CAUSE NO. A-06-CA-838-LY

SHOW CAUSE ORDER

Before the Court is the above-styled cause. This Court notes that there has been no summons issued in this case for Defendants Jana Duty, Williamson County Attorney; Honorable Michael Jergens; Laurie J. Nowlin; Williamson County, Texas; Michael Joe 1-N, Texas State Judges; or James Joe 1-N, Texas Attorneys. These individuals have therefore not been served in accordance with the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(c)(1) ("The plaintiff is responsible for service of a summons and complaint within [120 days of filing of the complaint]").

Furthermore, Defendant B.B. Schraub asserts in his Motion to Dismiss Second Amended Complaint filed March 14, 2007 (Clerk's Document 74) that Plaintiffs have not properly served Schraub in accordance with Federal Rule of Civil Procedure 4(c). The Court notes that no summons

or proof of service has been issued for Defendant Schraub.

Pursuant to Federal Rule of Civil Procedure 4(m), this Court will order Plaintiffs to effect service complying with Federal Rule of Civil Procedure 4 on Defendants Jana Duty, Williamson County Attorney; Honorable Michael Jergins; Laurie J. Nowlin; B.B. Schraub; Williamson County, Texas; Michael Joe 1-N, Texas State Judges; or James Joe 1-N, Texas Attorneys and provide the Court with proof of service thereon **on or before May 24, 2007**. *See* Fed. R. Civ. P. 4(l). If Plaintiffs fail to file proof of service of Defendants by this date, the Court will dismiss the claims against the above named Defendants for want of prosecution. *See* Fed. R. Civ. P. 4(m).

IT IS THEREFORE ORDERED that Plaintiffs file proof of service on Defendants Jana Duty, Williamson County Attorney; Honorable Michael Jergins; Laurie J. Nowlin; B.B. Schraub; Williamson County, Texas; Michael Joe 1-N, Texas State Judges; or James Joe 1-N, Texas Attorneys in accordance with Federal Rule of Civil Procedure 4 **on or before May 24, 2007**.

SIGNED this 25th day of April, 2007.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE